

FILED

OCT 19 2005

**CHAMBERS
COPY**

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 10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 SAN JOSE DIVISION

12 UNITED STATES OF AMERICA,)	5-70695 (PVT)
13 Plaintiff,)	[Proposed]
14 v.)	ORDER CONTINUING CASE AND
15 ALBERTO MUÑOZ,)	EXCLUDING TIME UNDER THE
16 Defendant.)	SPEEDY TRIAL ACT, 18 U.S.C. § 3161

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 18 This matter came before the Court for a status conference on Thursday, October 13, 2005.

19 Counsel for the government and the defendant were present.

20 At the hearing, the defendant was advised and stated that he understood that under Rule
 21 5.1(c) of the Federal Rules of Criminal Procedure he is entitled to a preliminary hearing within
 22 20 days of his initial appearance as an out-of-custody defendant unless an indictment is filed, and
 23 that pursuant to 18 U.S.C. § 3161(b) he is entitled to be indicted within 30 days of his arrest in
 24 this matter. After consultation with his attorney, the defendant stated that he wished to waive
 25 those rights and continue the date set for preliminary hearing or indictment until November 10,
 26 2005.

1 At the conclusion of the hearing, and at the request of defense counsel, without objection by
2 the government, the Court ruled as follows:

3 IT IS HEREBY ORDERED that this case is continued to November 10, 2005 at 9:30 a.m.
4 for a preliminary hearing or arraignment.

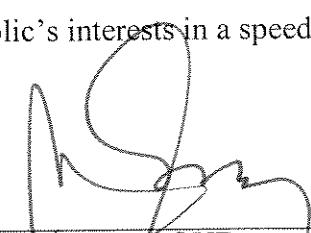
5 IT IS FURTHER ORDERED that the period of time from October 13, 2005 through and
6 including November 10, 2005 shall be excluded from the period of time within which an
7 indictment or information must be filed under the Speedy Trial Act, 18 U.S.C. § 3161(b),
8 pursuant to Title 18, United States Code, Section 3161(h)(8)(A), considering the factors set forth
9 in Section 3161(h)(8)(B). The Court finds that the ends of justice served by this continuance
10 outweigh the best interests of the public and the defendant in a speedy trial for the following
11 reasons:

12 Defense counsel has requested the additional time to review the supplemental discovery
13 that was provided by the United States last week. The United States has no objection to the
14 additional time requested. In addition, the parties require the additional time to discuss the
15 proposed plea agreement in this case in an effort to resolve this case prior to indictment. The
16 exclusion of time is therefore required for effective preparation of counsel.

17 IT IS FURTHER ORDERED that the period of time for a preliminary hearing is extended
18 under Federal Rule of Criminal Procedure 5.1(d), until November 10, 2005 based on the
19 defendant's consent and based on the parties' showing of good cause as set forth above.

20 For the foregoing reasons, the Court finds that the interests of justice in granting this
21 continuance outweigh the defendant's and the public's interests in a speedy trial.

22 Dated this 19 day of October, 2005.

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HOWARD R. LLOYD
United States Magistrate Judge

1 Copies to be served on:

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